

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on February 6, 2003 at 3:30 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Rod Bitney (R)
Rep. Larry Cyr (D)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: Rep. Penny Morgan (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Linda Keim, Committee Secretary

Please Note:

These are summary minutes. Testimony and discussion are paraphrased and condensed.

The time stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: HB 383, HB 395, HB 408, 2/3/2003
Executive Action: HB 339, HB 357, HB 249

HEARING ON HB 395

{Tape: 1; Side: A; Approx. Time Counter: 0 - 9.3}

Sponsor: REP. KIM GILLAN, HD 11, BILLINGS

Opening Statement by Sponsor:

REP. GILLAN said that HB 395 stems from when Department of Public Health and Human Services (DPHHS) increased their indirect costs from 9% to 14%, and Yellowstone County needed to repay DPHHS \$96,000 for public assistance activities. **REP. GILLAN** said that instead of returning the money to the State, HB 395 would require Yellowstone County to invest the funds in Yellowstone County's mental health drop-in center, the Hub.

Proponents' Testimony:

Bill Kennedy, Yellowstone County Commissioner, said that this deals with the \$96,000 that Yellowstone County owes to the State. He said that the \$96,000 does not go back to the General Fund: it is just a paper trail that has been left on the books. Mr. Kennedy said that program funding for the Hub was cut this past year, and that because of the indirect costs of the \$96,000, the Commissioners asked DPHHS if the \$96,000 could be transferred over to fund the Hub program and keep the Hub open for another year. The Commissioners held a fund raiser and are looking for other ways to keep the Hub open. He brought petitions signed by clients of the Hub.

EXHIBIT (loh26a01)

EXHIBIT (loh26a02)

EXHIBIT (loh26a03)

Mr. Kennedy presented a letter from Jaime Stevens, Utilization Review Coordinator, Mental Health Center.

EXHIBIT (loh26a04)

Bob Ross, Director of South Central Mental Health Center in Billings, said that the Center serves 13 counties, and that he represents about 250 people who would be recipients of the benefits of this legislation. He explained why a recent cut in the mental health system's budget was a poor business decision. He compared the \$5 daily cost per person at the Hub to a one night stay of \$1,000 at Billings Deaconess Hospital, \$350 for one night at Montana State Hospital, \$60 for one night at the Group Home, and \$35 for day-treatment. He said that the Hub provides prevention, ongoing case management on a daily basis, and services from medical doctors because of a partnership with the City-County Health Department. He said that the Hub is open

evenings and weekends, as well as during the day. He said that preventive services can save Emergency Room visits and prevent involuntary commitment at the state hospital.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 9.3 - 25.6}

REP. MENDENHALL asked what would be done with the \$96,000 debt if HB 395 is not passed. **REP. GILLAN** answered that the Department could write this off as a bad debt for the last fiscal year. She said that this is nothing more than a paper transaction, and deferred to Commissioner Kennedy. **Mr. Kennedy** responded that new funding in the form of the \$96,000 would keep the Hub open for another year. He explained that indirect costs of 9% for the year were first assessed for fiscal year 2000, and then increased to 14% after budgets had been set. The disputed \$96,000 was just for one year, and the County has paid the 14% since that time. He said that he was told that moving the \$96,000 had to be a legislative decision.

REP. JACOBSON stated that he understood that the difference between the 9% and the 14% was the \$96,000, and asked if that was correct. **Mr. Kennedy** answered that it was.

REP. DEVLIN asked if there were any other counties that had to put up more money when the percentage was raised to 14%. **Mr. Kennedy** said that there were other counties involved. All of the counties received letters saying that money would be taken out of their entitlement dollars if the debt was not paid. Many of the counties paid up, but Yellowstone County asked to transfer the money to the program that was cut.

REP. DEVLIN asked if the other counties paid the money, but Yellowstone County has not. **Mr. Kennedy** said that not all of the counties have paid the money back yet. He said that the Department said that counties could pay on a five-year plan.

CHAIRMAN NOENNIG said that it appeared that the actual money will have to come out of the Yellowstone County Budget. It will either go to pay back the Department, or it will go to the Hub. He asked if that was correct, and if funds were available. **Mr. Kennedy** said that was correct, and that they do have funds available. **CHAIRMAN NOENNIG** said that this change was the same as a bill passed out of Committee that said there could not be a

set-off against entitlement funds. He asked Mr. Kennedy if he was familiar with that bill. **Mr. Kennedy** said that he was.

CHAIRMAN NOENNIG asked what the Department's position was on this bill, and whether the Department would accept this transfer.

Marie Matthews, Fiscal Policy Advisor, DPHHS, said that they do not have a position on this bill. From DPHHS's perspective, this is a debt from Yellowstone County to DPHHS that is currently a debt sitting in a State special fund that has a cash shortage because of this debt. If this bill is written off, it will be a nonbudgeted expense to the General Fund. Ms. Matthews said that many counties have paid, that a few have not, and that they are continuing collection efforts.

REP. LASLOVICH asked for clarification of the statement, "Yellowstone County said that the money is there, and that it will be used for the Hub program." **Ms. Matthews** said that Yellowstone County was referring to the money being in the County budget.

REP. FORRESTER commented that Yellowstone County said that they would pay the Hub, but that they were not going to pay the debt. The County is going to continue to dispute the debt.

REP. MENDENHALL asked where the decision to make the cut came from. **Ms. Matthews** said that the cut came from the Governor's first round of budget cuts. **REP. MENDENHALL** asked if that was a prioritization decision. **Ms. Matthews** said she could not answer that question. She said that it is important to keep in perspective that DPHHS originally said that the indirect cost was going to be 9%, and then raised it to 14% after Yellowstone County had already budgeted for 9%. In intervening years, there was legislation that was intended to absolve counties from their debts, but somehow this debt is still on the books.

REP. MENDENHALL said that his concern is that this is an effort to supercede the prioritization process. **Ms. Matthews** stated that HB 395 was not intended to supercede the budgeting process. This was a situation where it was a local program. This issue has been around for awhile. With those dollars, Mr. Kennedy thought that this would be a compromise, and the \$96,000 would just be earmarked to a very important program.

REP. MENDENHALL asked if this compromise would be like a negotiated settlement that was related to the debt. **Ms. Matthews** said that was correct, that it was a way to balance things. She said that there are three different bills on this subject.

REP. MAEDJE asked why Yellowstone County was the only county involved in debt trading or reimbursement. **Ms. Matthews** said that an appropriation bill currently on the table addresses the other county's obligations. She said that she was not sure why the appropriation bill did not come to this Committee first.

Closing by Sponsor:

REP. GILLAN said that she will provide the Committee with the section of the law that was intended to absolve the county's debt. She said that this bill just relates to Yellowstone County, but that there are two other bills involving money that cover the relationship between counties and the state government.

HEARING ON HB 408

{Tape: 1; Side: A; Approx. Time Counter: 25.6 - 30}

Sponsor: **REP. JIM PETERSON, HD 94, BUFFALO**

Opening Statement by Sponsor:

REP. PETERSON said that HB 408 requires payment of local registrar fees to a county department, if the local registrar is a county employee. He stated that this is a statewide issue. He explained a situation in Fergus County where the County Registrar is issuing birth certificates, fetal death, or death certificates, and is being paid by the County as a county employee, but is pocketing the \$1 fee. Double-dipping is currently enabled in Section 1, sub 3(a). He said that HB 408 would make payment to the department in which the local registrar is employed, rather than to the employee.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 0 - 11}

Harold Blattie, Montana Association of Counties (MACo), said that making the clerk and recorder position automatically be the registrar would not work in all of the counties, because the clerk and recorder did not have the time. He commented that HB 408 is a good solution, and will eliminate the possibility of violation allegations being made against the individuals who are in this situation.

Bill Kennedy, Yellowstone County Commissioner and First Vice President, MACo, asked for a DO PASS.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BECKER asked how the \$1 fee was being received. **REP. PETERSON** said that the county treasurer is writing a check directly to the registrar. He said that the law specifically states that when the registrar issues the certificate, the county treasurer issues the check directly to the local registrar out of the General Fund. The registrar can get paid as an 8AM-to-5PM employee, in addition to being paid \$1 per certificate. He said that it is legal, but that it is a real sore spot at the commissioner level. The money should go to the county.

REP. BECKER asked if issuing the certificates was being done during 8AM to 5PM. **REP. PETERSON** said that the courthouse is only open from 8AM to 5PM, and that is the registrar's job. The \$1 fee has been set by DPHHS.

REP. RASER asked if there would ever be a situation where the registrar would not be employed by the county. **REP. PETERSON** said that there are situations where the registrar is appointed by DPHHS, and situations where that position is combined with the county clerk and recorder. In a case where the registrar is appointed, the registrar is entitled to the \$1, because the registrar is not a county employee.

CHAIRMAN NOENNIG asked for clarification. **Harold Blattie** gave a specific example of an employee who is appointed by DPHHS and is an employee of Yellowstone County Health Department. The employee works 8AM to 5PM for the Health Department, and is paid out of county funds for her employment. During the time that she is working her regular job, she also gathers and sends the birth and death certificates to DPHHS. At the end of the year, DPHHS sends a letter to the Yellowstone County Treasurer and instructs that a check be written to cover the \$1 fee for each certificate handled. In this case, the individual turns over the money to the Health Department, but that is not the case everywhere.

CHAIRMAN NOENNIG asked if the amendment on Line 18 is intended to make the registrar, even if appointed, an employee of the county, such that the registrar would be prohibited from receiving the money by some other statute. **Mr. Blattie** said that was right. The treasurer in the Yellowstone County example would write out the check to the Yellowstone County Health Department rather than to the individual.

CHAIRMAN NOENNIG asked where that information was found in the bill. **Mr. Blattie** referred to Line 18. **CHAIRMAN NOENNIG**

clarified that the payment on Line 17, 3(a) is not the salary of the registrar. The payment is the fee that is charged under Subsection 1. **Mr. Blattie** said that was correct. **CHAIRMAN NOENNIG** asked if it was okay to send the money directly to the registrar if the local registrar was not employed by the county. **Mr. Blattie** agreed, "If the individual is not a county employee."

Closing by Sponsor:

REP. PETERSON said that they are just trying to eliminate the double-dipping where the registrar gets paid twice out of county funds for 8AM to 5PM work. He said that this will eliminate a sore spot that exists in some counties, where some employees are unfairly paid on the side.

HEARING ON HB 383

{Tape: 1; Side: B; Approx. Time Counter: 12.7 - 23.9}

Sponsor: **REP. TOM FACEY, HD 67, MISSOULA**

Opening Statement by Sponsor:

REP. FACEY said that HB 383 is an economic development bill that would require the owner of a rental fleet of cars to register the vehicles in the county where the rental fleet is located. He said that it is unfair that Missoula County is providing the services, but not getting the Local Option Tax. Cars are being licensed in Granite County, but the company does not have a rental agency in Granite County.

Proponents' Testimony:

Riley Johnson, representing Enterprise Rent-A-Car, said that Enterprise registers all 700 of their cars in the counties where Enterprise has offices. He stated that business plans frequently change after their cars have been licensed. In a 12-month period, Enterprise may move their cars to or from any one of seven locations. Mr. Johnson suggested that an amendment might be in order to change the definition of the word "domicile" as it is used in the bill. He suggested saying: "A person owning or leasing a fleet shall apply to register each motor vehicle in a county or counties in which the person has a business, an entity, an operation, etc."

Opponents' Testimony:

Candace Payne, representing the Montana Rental Car Association, said that she represents many different rental car companies.

She said that rental car companies don't have a way to identify which cars get licensed in which counties when the company has several locations. For example, Budget has two locations, Avis has three, Dollar has two, National has seven, Thrifty has two, and Hertz has four. She said that Montana Rental Car Association also has a problem with the word "domicile," because rental cars do not stay in one place.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 5.6}

Jay Robson, Dollar Rent-A-Car, said that they own three major properties in western Montana. One is in Missoula County, one is in Granite County, and one is in Flathead County. He presented written testimony opposing HB 383.

EXHIBIT (loh26a05)

Jeff Taylor, Dollar Rent-A-Car, said that he is with Blackfoot Investments, a leasing operation with their main office located in Granite County. He stated that he agreed with previous opponents. He said that HB 383 would be a duplication of legislation. Mr. Taylor stated that it is already written in the law that a rental company must have a business interest in a county in order to license a car in that county.

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 5.6 - 23.9}

REP. JACOBSON asked if the situation described in Granite County is widespread throughout the State. **REP. FACEY** said that he did not know, and explained that he did not intend to remove the flexibility necessary to the car rental business with this bill.

REP. JACOBSON asked Mr. Johnson the same question. **Riley Johnson** replied that Enterprise in Missoula is aware of the problem. He said that he will bring information about how widespread this problem is back to the committee.

REP. HAWK asked Mr. Robson if it is possible to rent a car in Missoula, drop it off in Kalispell, and fly home. **Jay Robson** said that was possible.

REP. RASER asked what the difference in registration fees was between Missoula County and Granite County. **Mr. Robson** said that the average difference in fees runs around \$45 to \$50 per car. The cost depends upon whether the vehicle is new or used, and whether the vehicle is on a 6-month or a 12-month plate. They

turn over roughly 1,000 units per year. Dollar Rent-A-Car currently has 50-60 cars licensed with Missoula plates, and others licensed with Granite and Flathead County plates.

REP. RASER said that she is concerned about Missoula County's lack of revenue. She asked if the fleet of vehicles is proportionately registered so that, on the average, there will be a certain number registered in Missoula and an average number in Granite County. **Mr. Robson** said that the vehicles are not proportionately registered. Up until the year 2001, 100% were registered in Missoula County. Since that time, they have used Flathead County, because they bought a lot of cars there. He said that Dollar spreads their purchases around.

REP. RASER asked if "spreading it around" wouldn't be the same for county registrations. **Mr. Robson** said that he thought they should spread it out more than they have. He commented that he liked the personalized service that Granite County provided.

REP. BITNEY asked how the Local Option Tax works in Missoula.

REP. FACEY said that the basic cost of licensing a car in Montana is the same anywhere. He said that the Local Option Tax in Missoula is a permissive tax of up to one-half of one-percent of the manufacturer's suggested price. He added that the tax can go up to seven-tenths of a percent, but that the last two tenths of a percent must be voted upon.

REP. BITNEY asked where the Local Option Tax is assessed. **REP. FACEY** said that it is assessed on the manufacturer's suggested retail value, and that it is just assessed on cars.

REP. BECKER asked Mr. Robson if Dollar Rent-A-Car has a car rental agency in Granite County. **Mr. Robson** replied that Dollar does not have a rental agency, but that they do have an office, and that they own property in Granite County.

CHAIRMAN NOENNIG asked what determines where a vehicle can be registered. **Mr. Robson** said that the owner must be a resident of the county or have a business interest of the county before a vehicle can be registered there.

CHAIRMAN NOENNIG asked if, in the past, Dollar normally registered vehicles in the county the vehicles were purchased in, unless they were shipped to another county before they got registered. **Mr. Robson** said, "Yes."

CHAIRMAN NOENNIG asked if Dollar was purchasing all of their vehicles in Missoula, when they were registering all of their vehicles there. **Mr. Robson** said that even then some of them were

purchased in Flathead County and some in Lake County. The majority came from Missoula.

CHAIRMAN NOENNIG asked why the decision was made to register all the vehicles in Missoula at that time. **Mr. Robson** said that it was because it was easy to just walk down the street. He said that he handled the registration wherever he happened to be.

CHAIRMAN NOENNIG said that he was concerned about the problem of how the bill would work in determining what county the cars would have to be registered in. He asked **REP. FACEY** if that was an issue. **REP. FACEY** said that if the committee agrees to the underlying philosophy of the bill, that the language can be changed. He said that his intention was that if a car could be rented from Dollar in Granite County, that he has no complaint.

REP. MAEDJE asked what section of statute deals with 12-month registrations. **Connie Erickson, Legislative Branch**, stated that the information about 12-month registrations follows the information about 6-month registrations in Sub (b) of 61-3-318.

REP. MAEDJE asked what was wrong with shopping around for the cheapest county, if that was what someone was doing. **REP. FACEY** said that nothing was wrong with doing that. He said that his complaint is that car rentals should be available in that county.

REP. MENDENHALL asked about other businesses that might have a primary location. If a construction business had a fleet of equipment based in Granite County, and they did work all summer in Missoula County, but the business was licensed in Granite County, "Is that allowable under current law?" **Mr. Johnson** said that it was. **REP. MENDENHALL** asked if the business would have to be licensed in Missoula, where the company was using the services. **Mr. Johnson** replied, "No."

Closing by Sponsor:

REP. FACEY reasserted that the philosophy behind the bill is that Missoula County is providing the services, but not receiving the Local Option Tax. If the business had a rental office in Granite County, he said that he would have no complaint.

EXECUTIVE ACTION ON HB 339

{Tape: 2; Side: A; Approx. Time Counter: 26.5 - 28}

CHAIRMAN NOENNIG said that HB 339 would allow permissive appointment of an auditor in a small county, as opposed to language that did not stipulate either way.

Motion/Vote: REP. OLSON moved that HB 339 DO PASS. Motion carried unanimously, by voice vote.

EXECUTIVE ACTION ON HB 357

{Tape: 2; Side: A; Approx. Time Counter: 28.0- 30}

CHAIRMAN NOENNIG explained that HB 357 deals with county restoration of courthouses.

Motion: REP. OLSON moved that HB 357 DO PASS.

Discussion:

REP. OLSON said that if counties want to get involved with the restoration of county courthouses, that the tools are available to handle restoration with local engineering firms and the rural development office. He said that it is not necessary to add another position to the Historical Preservation Office.

REP. MENDENHALL stated that he would not vote in favor of the bill. He said that it came down to whether to spend the \$72,000 on courthouse restoration, or to spend the \$72,000 on something like Health and Human Services, or Education.

REP. MAEDJE commented that grants are available for restoration, and that they can be obtained through the Economic Development Office. He said that grant-writing help is also already available through that office.

CHAIRMAN NOENNIG said that the Fiscal Note relates to not only establishing a position, but also estimating the amount of money that will be necessary if this service is requested. He said that the expertise already exists in the Historical Society. He said that he was not suggesting that it was a bad idea.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 3.3}

REP. OLSON said that the expertise would be there regardless of whether this bill passes. Opportunities to work with other agencies or other groups are also available. He said that programs should not be expanded when the programs that are available can't be paid for.

REP. RASER said that she would have to agree with **REP. OLSON**.

REP. BITNEY said that he would vote in favor of the bill.

REP. MAEDJE stated that he would support the bill if it were to fund hiring a restoration architect because that is the actual expertise that is necessary.

CHAIRMAN NOENNIG said that he thought the bill mentioned that hiring a restoration architect was a distinct possibility.

Substitute Motion/Vote: **REP. OLSON** made a substitute motion that **HB 357 BE TABLED. Substitute motion carried 11-6 with REPS. BITNEY, CARNEY, CYR, JACOBSON, MAEDJE, and NOENNIG voting no** on a voice vote.

EXECUTIVE ACTION ON HB 249

{Tape: 2; Side: B; Approx. Time Counter: 3.5 - 25.0}

CHAIRMAN NOENNIG explained HB 249, the urban wildlife problem.

Motion: **REP. DEVLIN** moved that **HB 249 DO PASS.**

Discussion:

REP. HAWK stated that he would oppose HB 249. He said that chronic wasting disease will probably take care of the problem.

REP. BITNEY said that he opposed the bill.

REP. RASER stated that she opposed HB 249 because the bill takes money that hunters wanted to be used for conservation and habitat and uses it for something else. She suggested starting a fund for removal of wildlife in the cities.

REP. OLSON responded that the land which Fish, Wildlife and Parks (FWP) is spending money on will remain habitat, irregardless. He said that FWP has vehicles, people, and money available to deal with the problem.

REP. DEVLIN said that he agreed with **REP. OLSON**. He stated that the legislature is here to set policy, and that many groups have stated that urban wildlife is a problem that FWP should take care of. **REP. DEVLIN** said that the wildlife situation is FWP's problem because FWP is the agency that is directed to handle wildlife problems. He stated that this is a clear-cut policy decision, and that a message should be sent to FWP to address the urban wildlife problem.

REP. CARNEY said that the problem stems from subdivisions moving further out of town where the animals live. She said that if the animals are moved, they will come right back. If we keep

moving subdivisions out where the animals are, we have to learn to live with them. We have to make some choices about how we conduct our lives out there. She did not think that this bill would solve any problems.

REP. RASER said that if there are communities that find wildlife to be a problem, those cities and towns can raise the money and establish a fund. She stated that the communities who are experiencing the problem should pay for the solution. She said that she did not have a problem with what the bill is trying to do; her problem is with the funding source.

REP. FORRESTER asked why deer aren't allowed to be taken by hunters within the City of Billings during archery season.

Connie Erickson responded that local governments are prohibited from doing anything that has to do with wildlife.

REP. FORRESTER stated that FWP could allow a hunt to occur if the city council would allow that hunt. **Connie Erickson** referred to Section two of the bill which amends 7-1-111, powers denied to a local government. Page 3, Line 9 says that current law does not allow a local government to exercise any power that has to do with fish and wildlife. She stated that an exception was put into this bill that gives local government the authority to pass an ordinance to handle the problem, but communities still have to go to FWP to handle the removal.

REP. HAWK said that the ordinance that does not allow a hunt to take place is in effect now. FWP cannot allow a hunt to take place within the city limits of Billings, even though there are large undeveloped areas there. **Connie Erickson** stated that if a local ordinance says that discharging a firearm within the city is not allowed, FWP could not come in and authorize that.

REP. HAWK said that HB 249 does not specify how the removal of game animals would be accomplished. He asked, "If the City of Helena had an ordinance, could FWP take these animals with a firearm?" **Connie Erickson** responded that it would depend on how the local ordinance was written, and what other ordinances are currently in place. If a local government had an ordinance that said a firearm cannot be discharged in the city limits, FWP could not come in and shoot the deer.

CHAIRMAN NOENNIG said that the purpose of this bill is for the city to enact an ordinance to allow FWP to come in and shoot the urban wildlife.

REP. HAWK asked if the ordinance could be modified to allow discharge of a firearm or the use of a bow and arrow in the city.

CHAIRMAN NOENNIG said that violates the power section of local governments on Page 3, Line 9.

REP. HAWK said that removal of the deer from neighborhoods has not been solved, and asked, "Has consideration been given to what the animal right's folks will do with this?"

CHAIRMAN NOENNIG said that it is between FWP and the city government. He said, "If they don't come up with an ordinance that describes how that will be done, and some rules by FWP, it won't happen. That is what the bill says."

REP. OLSON responded that Second Street West in Roundup has been there since 1904, and yet there are collisions with deer at that location. He said that Roundup would probably not do anything like this.

REP. MENDENHALL asked **CHAIRMAN NOENNIG** what would happen if he hit a deer in the City of Missoula and this law is enacted. He asked if action can be taken against FWP for not taking care of their deer, as the ordinance specifies. **CHAIRMAN NOENNIG** said, "Perhaps, because there is a duty imposed by statute on someone to do something. If they neglect to do it, and damage to an individual results, that person has the basis for a claim, unless there is some immunity in the statute or some other circumstance." He said that it could give rise to some liability.

REP. MENDENHALL asked if that situation was materially different from the current one. **CHAIRMAN NOENNIG** stated, "Only in the sense that FWP doesn't operate there. If they have duties and implement them, if they are negligent in doing them, they have some responsibility." He said that the real issue is, who is better able to undertake that obligation.

REP. BITNEY stated that one solution would be to increase deer hunting in the Missoula vicinity. **REP. HAWK** said that hunting is allowed almost year-round in the Missoula area. The problem is that the property owners along the river close their land off to hunting and feed the deer. He commented that the deer just keep multiplying with that arrangement.

REP. DEVLIN stated that this is a policy decision for the committee to make telling FWP to develop a plan. He said that in his rural area they have a damage hunt and just shoot the deer. He agreed with **REP. HAWK** that shooting the deer when they come out of the city would cause some public relations problems for FWP. Other states have similar problems and have opened the hunt up to expert bowmen to thin out the deer population.

REP. FORRESTER said there were no rights of trespass in the bill. He asked if that meant that FWP could not enter private property to take deer. **CHAIRMAN NOENNIG** said that it would depend upon what the city ordinance said. "It is possible that if there were a public health and safety reason, and an ordinance was enacted allowing people to come onto private property and do something within reason, that it might be valid," stated **CHAIRMAN NOENNIG**.

REP. FORRESTER said that the program 20/20 referred to that problem. He said that people in New York would not allow entry onto their property to the person hired to take the deer.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 3.9}

Vote: Motion failed 8-8 with **REPS. BITNEY, DEVLIN, JACOBSON, MAEDJE, MORGAN, OLSON, MENDENHALL, and NOENNIG** voting yes, on a roll call vote.

Substitute Motion/Vote: **REP. HAWK** made a substitute motion that **HB 249 BE TABLED**. Substitute motion carried 9-7 with **REPS. BITNEY, DEVLIN, JACOBSON, MAEDJE, MENDENHALL, MORGAN, and OLSON** voting no on a roll call vote.

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. MARK NOENNIG, Chairman

LINDA KEIM, Secretary

MN/LK

EXHIBIT (loh26aad)